

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL ANDREW SINCLAIR,
Plaintiff,
v.
BANK OF AMERICA,
Defendant.

2:11-CV-1145 JCM (GWF)

ORDER

Presently before the court is pro se plaintiff Michael Sinclair's motion to stop wrongful foreclosure proceedings and for stay order. (Doc. #1).

Plaintiff purchased the subject property in 2005 and alleges that he consistently made his mortgage payments until sometime in 2010 when, due to the economic situation in the country, he could no longer afford to do so. At that time, plaintiff contacted Bank of America, the mortgage holder, to request a loan modification. Plaintiff alleges that an unidentified Bank of America employee told him that he was “preapproved for this option, and [his] mortgage payments would be lowered for the next 3 years to a monthly payment [he] could afford.” (*Id.*). However, plaintiff alleges that two weeks ago he called again and was told that the bank had decided to instead proceed with the foreclosure process.

From this facts, plaintiff contends that he was “misled,” and he requests ownership of the property as his primary residence and the right to make monthly mortgage payments as his income

1 may allow. Plaintiff also hints at an entitlement to funds from the “federal government’s aid to bail
2 out mortgage companies to allow owners to stay in their properties and not be evicted by foreclosure
3 proceeding[s] by mortgage companies . . . when loan modification and interest modification options
4 are available.” (*Id.*). As relief, plaintiff requests the court stop, or alternatively stay, the pending
5 foreclosure.

6 The court is unable to grant plaintiff’s motion at this time. Plaintiff has failed to file a
7 complaint against defendant Bank of America, the instant motion being the only document filed to
8 date in the case. *See FED. R. CIV. P. 3* (“A civil action is commenced by filing a complaint with the
9 court.”). Additionally, the motion is lacking key information, such as the address of the property and
10 the date of the foreclosure sale that has allegedly been scheduled.

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff’s motion to stop
13 wrongful foreclosure proceedings and for stay order (doc. #1) be, and the same hereby is, DENIED
14 without prejudice.

15 DATED July 14, 2011.

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17 **UNITED STATES DISTRICT JUDGE**
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